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HUMAN RIGHTS COMMITTEE
Fifty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

Cyprus

1. The Committee considered the second periodic report of Cyprus (CCPR/C/32/Add.18) at its 1333rd to 1335th meetings, held on 13 and 14 July 1994 (CCPR/C/SR.1333-1335) and adopted[1] the following comments:

A. Introduction

2. The Committee welcomes the opportunity to resume its dialogue with the Government of Cyprus while regretting that this follows a lapse in reporting of over 16 years. The Committee expresses its satisfaction with the useful information on the application of the Covenant which is contained in the second periodic report and in the annexes as well as in the core document (HRI/CORE/1/Add.28). The Committee expresses it appreciation to the high-level delegation which presented the report and which provided the Committee with a wealth of detailed and updated additional information in response to the questions posed by Committee members.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes that the State party, as a consequence of events which occurred in 1974 and which resulted in the occupation of part of the territory of Cyprus, is not in a position to exercise control over all of its territory and consequently cannot ensure the application of the Covenant in areas not under its

[1] At the 1354th meeting, held on 27 July 1994

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control. The Committee also notes that, as a consequence of the same events, a number of citizens are still missing which has made it impossible for the State party to provide any information about the protection of their rights. The Committee further notes that the continuing division of the country has adversely affected efforts to reduce tension among various ethnic and religious communities which comprise the population.

C. Positive aspects

4. The Committee notes that Cyprus has constitutional provisions and democratic institutions which ensure basic respect for the rule of law and the protection of rights, and that there are non-governmental organizations active in the promotion of human rights. It welcomes the general legislative reform which has been undertaken with regard to a number of areas covered by the Covenant. In particular, the Committee takes note of new or proposed laws concerning arrest and detention procedures, incitement to racial or religious hatred, deportation of aliens, election laws, personal data, violence against women and family law, and the establishment of family courts. The Committee also takes note of the commission of inquiry on allegations and complaints against the police and the pending bill to amend the Law for the Commissioner for Administration ("Ombudsman") to include complaints of ill-treatment in his functions. The Committee also notes that the Law Commissioner is responsible for the preparation of reports under the Covenant and for taking appropriate action when provisions of the domestic law are in need of alignment with the Covenant.

D. Principal subjects of concern

5. The Committee is concerned that, while the Covenant has superior force to domestic law under the Constitution and may be invoked in the courts, there remain uncertainties in domestic law as to which provisions of the Covenant are self-executing and which might require specific legislation.

6. With respect to the right to life, the Committee is concerned that article 7 of the Constitution provides for very broad exceptions to that right and that the current instructions governing the use of force leave wide discretion to police officers. The Committee is also concerned that the domestic law allows application of the death penalty to persons between 16 and 18 years of age, in conflict with the provisions of article 6, paragraph 5, of the Covenant. The Committee notes, however, that the death penalty is not applied in practice.

7. The Committee is concerned over reported cases of torture or cruel, inhuman or degrading treatment of detainees by police, and the failure to secure conviction and punishment of any of the perpetrators. In this connection, the Committee notes with concern the extended nature of pre-trial detention in Cyprus during which time detainees may be vulnerable to possible police abuse. The Committee is also concerned that police officers and other law enforcement officials are not provided with adequate

education and training with regard to the provisions of the Covenant concerning arrest and detention procedures.

8. The Committee is concerned that under current law imprisonment may be imposed for non-payment of civil debt in certain circumstances, in violation of article 11 of the Covenant.

9. While noting that some progress has been achieved in combatting discrimination against women, the Committee is concerned that some patriarchal attitudes and practices still persist which impede women from realizing full and equal enjoyment of rights.

10. The Committee is concerned over the unfair treatment accorded to conscientious objectors in Cyprus, who are subject to an excessive period of alternative service lasting 42 months, which is not compatible with the provisions of article 18 and 26 of the Covenant, and that persons may also be subject to punishment on one or more occasion for failure to perform military service.

11. The Committee is concerned over restrictions on the press, particularly with regard to seditious intent as defined under article 47 of the Criminal Code. The Committee notes that freedom to criticize the authorities and challenge government policies are a normal and essential part of a functioning democracy.

12. The Committee is concerned that the 1958 law regulating lawful assembly and requiring permits for public assemblies is not in compliance with article 21 of the Covenant. In this regard, the Committee emphasizes that restrictions on freedom of assembly must be limited to those which are deemed necessary in conformity with the Covenant.

13. The Committee is concerned that in a number of key areas children are not adequately protected under the terms of existing legislation. In particular, the Committee is concerned that marriageable age is defined as the onset of puberty, that criminal responsibility begins at age seven, and that persons between sixteen and eighteen years of age are not considered child or youthful offenders and are subject to penal sanction.

14. With respect to article 25 of the Covenant, the Committee is concerned that, because of the events mentioned in paragraph 3, elections in accordance with the 1960 Constitution could not be held since 1974 for government positions allocated to Turkish Cypriot representatives. Under such continuing circumstances, Cypriot citizens of Turkish origin cannot effectively exercise their right to vote and run for public office as guaranteed under the Covenant.

15. The Committee is concerned that there is not sufficient public awareness of the Covenant nor adequate publicity given to the availability and presentation of its reports under the Covenant. In this connection, the lack of cases invoking the provisions of the Covenant in the courts as well as the lack of communications filed under the First Optional Protocol seems to

indicate that awareness of the Covenant and the Optional Protocol is not high among judges or members of the bar.

E. Suggestions and recommendations

16. The Committee recommends that the legislative reforms presently under way be expanded and accelerated in order to ensure that all relevant legislation, including the Criminal Code and administrative procedures are in conformity with the requirements of the Covenant. In expanding the review, the Committee recommends that its General Comments be used as a guide to the application of the Covenant. In this connection, the Committee suggests that the presumption of innocence should be expressly stipulated in the Penal Code. In addition, the relevant laws and legislation concerning imprisonment for civil debt, restrictions on freedom of expression and freedom of assembly should be amended to conform with the requirements of the Covenant.

17. The Committee recommends that the Government of Cyprus consider becoming a party to the Second Optional Protocol as soon as possible.

18. The Committee recommends that steps be taken to ensure investigation of all allegations of torture or mistreatment of detainees and the prosecution and punishment of all persons guilty of such acts. The length of pre-trial detention should be significantly shortened to accord with the Covenant and adequate training provided for all law enforcement officials to promote observance of the protection afforded by the Covenant. Instructions on the use of force by police should be updated to conform with the requirements of the Covenant and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

19. The Committee recommends that the laws concerning conscientious objectors be amended in order to ensure their fair treatment under the law and to reduce the excessively lengthy period of alternative national service and the possibility of repeated punishment.

20. With respect to the equality and rights of women, the Committee recommends that affirmative measures be taken to ensure their participation in the political process and that the new laws concerning domestic violence be closely monitored to ensure their effective application.

21. With respect to article 24 of the Covenant, the Committee recommends that existing laws concerning the protection of children be reviewed and amended as necessary to conform with the requirements of the Covenant. In particular, the minimum age for marriage, criminal responsibility, penal sanction and the imposition of the death penalty should be changed to conform with present international standards and the spirit of article 24, paragraph 1 of the Covenant.

22. The Committee recommends that measures be taken to ensure greater public awareness of the provisions of the Covenant and the Optional Protocol and that the legal profession as well as judicial and administrative authorities have detailed information on those instruments in order to ensure their effective application. The Committee also recommends that adequate publicity be given to the second periodic report and its consideration by the Committee, including these comments, in order to stimulate greater interest in the Covenant in Cyprus.